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RUEHUJA/AMEMBASSY ABUJA 1635
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RUEHDS/AMEMBASSY ADDIS ABABA 1639
RUEHBY/AMEMBASSY CANBERRA 0905
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RUEHBS/USEU BRUSSELS
RUEHG/USMISSION GENEVA 0764
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RUCNDT/USMISSION USUN NEW YORK 1856
RHMF/JOINT STAFF WASHDC
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C O N F I D E N T I A L SECTION 01 OF 04 HARARE 000552

SIPDIS

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AF/S FOR S. HILL
NSC FOR SENIOR AFRICA DIRECTOR B. PITTMAN
STATE PASS TO USAID FOR L.DOBINS AND E.LOKEN
TREASURY FOR J. RALYE AND T.RAND
COMMERCE FOR BECKY ERKUL
ADDIS ABABA FOR USAU
ADDIS ABABA FOR ACSS

E.O. 12958: DECL: 01/12/2016
TAGS: PGOV PREL ASEC SADC KDEM ZI
SUBJECT: CONSTITUTIONAL AMENDMENT 18 - ANOTHER GOVERNANCE
SETBACK

REF: A. PRETORIA 2209
1B. HARARE 205

Classified By: Ambassador Christopher Dell under Section 1.4 b/d

Summary

11. (C) Parliament is due to debate the proposed Constitutional Amendment 18 when it re-opens in late July. The Amendment Bill has provisions for holding simultaneous presidential and parliamentary elections in March 2008; it strengthens the Executive's control over Parliament by substantially increasing the number of seats in Parliament as well as the number of representatives appointed by the Executive rather than elected; it expands the opportunity for gerrymandering; and it proposes a toothless new Human Rights Commission made up of Executive nominees. The Amendment is a major setback to the Parliamentary reform agenda and it opens up a new source of patronage to soothe frustrations and create positions for ZANU-PF cronies. Its passage would ensure/protect Mugabe's future while also further sapping the beleaguered treasury. However, we understand that the GOZ indicated at the GOZ/MDC talks in Pretoria that it would not push Constitutional Amendment 18 forward (ref A) and that it has instructed the Commission that determines/gerrymanders constituencies to stop its work. End Summary.

Key Changes and Window Dressing

¶2. (U) Key changes proposed by Constitution of Zimbabwe Amendment (No. 18) Bill, which was gazetted on June 8 and is due to be presented to Parliament in late July, are:

- Shortening of the term of office of the President from 6 to 5 years (N.B. President Mugabe would complete his 6-year term in 2008; the present parliamentary term, begun in 2005, would be cut back by two years to coincide with the 2008 presidential election. Both terms would then be on a 5-year cycle.);
- In the event that a President resigns, dies or is removed from office, election of a successor to complete the term of office by an electoral college consisting of the Senate and House of Assembly sitting jointly;
- Increase in the size of the Senate from 66 to 84 members;
- Increase in the size of the House of Assembly from 150 to 210 members;
- Allowing a constituency to be delineated with up to 25 percent more or fewer registered voters than the average.

Several further proposed changes fall in the category of window dressing, including:

- Establishment of a Human Rights Commission
- Making the House of Assembly alone responsible for voting on motions of no confidence in the Government and resolutions

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for the confirmation of extension of states of public emergency.

A Stacked Parliament; "Urban" Chiefs; Gerrymandering

¶3. (C) John Makamure, the director of the USG-funded parliamentary support project implemented by the State University of New York (SUNY), and his associate Israel Chilimani pointed out to econoff on June 18 that the Amendment substantially expanded the Executive's influence over the composition of the Senate and Parliament by providing for the appointment - not election - of 34 out of 84 (40 percent) of the Senators. The number of Senators elected by voters would remain at 50 but be supplemented by the governors of Zimbabwe's 10 provinces and an additional 8 Chiefs beyond the present 16; two of the new eight would represent "metropolitan provinces." In the House of Assembly, 200 out of 210 members would be elected. (Comment: Padding the Senate with Mugabe cronies also dilutes the strength of the Mujuru faction in Parliament which is concentrated in the lower House. End Comment)

¶4. (C) Makamure commented that appointing two Chiefs to represent urban areas departed markedly from cultural norms by imposing the rural tradition of chieftainship on an urban population of different totems. It effectively created a ZANU-PF counterweight to the MDC's strength in Harare and Bulawayo. He added that by allowing the Delimitation Commission, whose members are appointed by Mugabe and which determines district boundaries, to diverge 25 percent from the average constituency size (up from the present 20 percent limit) it expanded the scope for gerrymandering. The Zimbabwe Election Support Network (ZESN) believes the clause is intended to allow the redrawing of urban constituencies in Harare and Bulawayo to incorporate adjacent rural areas.

¶5. (C) Since Mugabe's successor would be determined by an electoral college consisting of both Houses of Parliament in the event of Mugabe's resignation or his removal from office) an undemocratic proposal in itself - the new composition would ensure that Parliament elected a successor in Mugabe's

best interest and one that would protect him in retirement, as well. However, although the Amendment provides a mechanism to allow him to step down gracefully some time after the March 2008 elections, assuming he won, the two parliamentary experts did not believe Mugabe would go that route. On the contrary, he would cling to power indefinitely. They regarded the electoral college clause in the Amendment as "a decoy" to get people's votes.

Major Setback to Parliamentary Reforms

¶6. (C) Chilimanzi doubted that a new Parliament, "stuffed" by ZANU-PF loyalists, would maintain the momentum of seven years of parliamentary reform efforts that the SUNY program

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had undertaken to make the Executive accountable (Ref B). He anticipated that the large influx of new MPs would erode the gains of the portfolio committee system, which encouraged specialization and expertise. In his view, it was likely that the opposition party would lose the chairmanship of three or four committees and that the chairpersons would be replaced by "non performers." Worse yet, he anticipated that most of the new group of MPs would be resistant to change. In his view, the Amendment opened up a new source of patronage by creating positions for cronies and soothing frustrations within the party.

Toothless New Human Rights Commission

¶7. (SBU) Makamure was scornful of the proposed 9-member Human Rights Commission. Under Amendment 18, the President would appoint the Chairman of the Commission. The eight other members would be appointed by the President from a list of 16 nominees submitted to the Committee on Standing Rules and Order (SROC) - the supreme decision-making organ of Parliament. Dominated by ZANU-PF and the Executive, SROC's membership includes both Vice Presidents, the Minister of Justice and the Minister of Finance. Furthermore, the Commission's role would be limited to carrying out inquiries and making recommendations without any obligation by the Executive to abide by its recommendations. Makamure called the Commission "political window dressing" and a mere extension of the existing ineffective office of the Ombudsman.

Meaningless Vote-of-No-Confidence Clause

¶8. (SBU) Amendment 18 gives the House of Assembly alone the power to declare a state of emergency and vote on motions of no confidence in the government, whereas the current Constitution grants the authority jointly to both Houses of Parliament. Makamure pointed out that although the Amendment appears to empower the House of Assembly in this regard, in reality the President still has the power to dissolve Parliament.

Neither Space nor Money for New Legislators

¶9. (SBU) Office and meeting space in Parliament is at a premium with infrastructure and support systems barely upgraded since the institution had 120 members in the early 1980s. Makamure lamented the deterrent effect of the shortage of space on public access to Parliament and on stakeholder attendance at committee meetings. Expanding Parliament to 294 legislators would only exacerbate the problem.

¶10. (SBU) He added that the induction and orientation of new

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members required a massive injection of technical and financial resources that the treasury could ill afford; Parliament had already overspent by about Z\$50 billion its Z\$13 billion budget allocation for 2007. Under the new Amendment, expenditures on salaries, wages, travel and accommodation would rise sharply, not to mention the anticipated huge foreign-exchange capital expenditure on new vehicles for all legislators. Makamure estimated the vehicle scheme alone would cost the GOZ US\$17.6 million for the new Parliament, as the soft loan terms in a hyperinflationary environment left the GOZ footing the bill in reality.

ZANU-PF MPs "Whipped into Line"

¶11. (C) The Amendment appears to have the support of two-third of the House of Assembly and Senate to ensure its passage once it comes before Parliament. Chilimanzi told us he anticipated no dissension among the ZANU-PF legislators, as they had been "whipped into line."

Comment

¶12. (C) The obvious intention of the bill is to ensure that Mugabe consolidates his present power and secures his future safety. The Zimbabwe Election Support Network (ZESN) has gone so far as to suggest that the bill could be interpreted to extend Mugabe's term until 2010 and synchronize elections then, rather than in 2008. However, we understand that the GOZ indicated at the GOZ/MDC talks in Pretoria that it would not push Constitutional Amendment 18 forward (ref A). Furthermore, MDC MP Trudy Stevenson told the Ambassador on June 21 that the Delimitation Commission that determines/gerrymanders constituencies had been instructed to stop its work. Whether the GOZ makes good on these promises and takes further positive steps will be a test of its seriousness in the GOZ/MDC talks.
DELL